



30 Bank Street
PO Box 350
New Britain, CT 06050-0350
06051 for 30 Bank Street
(860)223-4400
fax (860)223-4488

Testimony Of Sherwood Anderson
Human Rights And Responsibilities Section
Connecticut Bar Association

**In Support Of HB 6578
AN ACT CONCERNING THE PENALTY FOR A CAPITAL FELONY**

Judiciary Committee
March 4, 2009

The Connecticut Bar Association has authorized its Human Rights and Responsibilities Section to take the following position in connection with all bills before the General Assembly concerning the death penalty. It should be noted that the Connecticut Bar Association as a whole has not taken a position on these bills.

The position is the following: "To support abolition of the death penalty in Connecticut for those presently awaiting execution and those who are presently charged or in the future may be charged with capital felonies; and to support a maximum penalty for capital felonies in all cases to be life imprisonment without the possibility of release."

With respect to the named six (6) bills presently under consideration by the Judiciary Committee, the Section in furtherance of its authorization recommends the following action:

- The Section supports SB 539, SB 744, HB 5459, and HB 5847, except that the Section urges amendment of these bills to provide that the death penalty be abrogated for all those under sentence of death in the state, and a punishment of life imprisonment without possibility of release be substituted for the death penalty imposed.
- The Section supports HB 6578 insofar as it eliminates the death penalty for capital crimes committed on and after the effective date, but opposes the sections of the bill that keep the death penalty for certain capital felonies prior to the effective date.
- The Section opposes SB 213 because it provides for a new capital felony that would subject offenders to the death penalty, and the Section instead seeks elimination of the death penalty for all crimes in the state.

The Section supports abolition of the death penalty because execution is irreversible. Since 1973, about 130 people in the United States have been released from death row and completely exonerated of capital felony charges. Nearly every month there are reports of convicts on death row or serving long sentences being released or pardoned as a result of DNA or other scientific evidence, confessions by others, recanting of testimony, and so forth. In Connecticut, the death penalty procedure is subject to human error by judges and juries. Many of those sentenced to death in the state have had their convictions overturned by appellate courts and their cases remanded for re-trial or rehearing for procedural or prejudicial mistakes, ineffective assistance of counsel, and other reasons.

The argument is often made here and in other states that the death penalty statutes can be amended or "fixed" so that the chance of executing an innocent person is virtually impossible. We all know that statutes made by humans can never be made perfect. As U. S. Supreme Court Justice Stevens said in 1994

"From this day forward, I no longer shall tinker with the machinery of death. For more than 20 years I have endeavored ... to develop ... rules that would lend more than the mere appearance of fairness to the death penalty endeavor ... Rather than continue to coddle the court's delusion that the desired level of fairness has been achieved ... I feel ... obligated simply to concede that the death penalty experiment has failed."

Connecticut is now the only state in New England that effectively allows the death penalty. Maine, Vermont, Massachusetts, and Rhode Island have abolished the death penalty completely. Technically, New Hampshire allows it, but no one has been sentenced to death under its statute for over 35 years, and there are no persons now on death row in that state. In recent years, New York and New Jersey have abolished the death penalty.

Other compelling reasons, all based on demonstrable factual evidence include the following:

- The costs of capital felony murder cases are significantly higher than the costs of non-capital felony murder cases. A recent study in Texas showed that the cost of a death penalty case (\$2.3 million on average) was three times the cost of imprisoning a person for 40 years under maximum security. In this time of austerity Connecticut would save substantial staff and court time and untold thousands of dollars every year by adopting this legislation; studies show that the death penalty is not a deterrent to violent crime.
- The South has by far the highest number of executions, yet also has the highest rates of murder in the U. S. The Northeast has by far the lowest rate of executions and also has the lowest murder rate; the death penalty disproportionately affects the poor and minorities.
- Those wealthy enough to afford private defense attorneys rarely are sentenced to death. As one example of racial taint, a comprehensive study in 1993 by the state of North Carolina found that the odds of receiving a death sentence in that state rose by 3.5 times among those defendants whose victims were white, rather than non-white. Since 1976, over 80% of people executed were convicted of killing white victims, although people of color make up more than half of all homicide victims in the United States.
- The United Nations General Assembly has for many years called for abolition of the death penalty, and the vast majority of nations, including all EU members, have done so.
- The Universal Declaration of Human Rights, adopted by the United Nations and signed by the United States, calls for abolition. In this state, there is a serious geographic disparity.
- Of the 10 men on death row, five were prosecuted in Waterbury by one state's attorney.

For all of these reasons, the Section respectfully requests that the Judiciary Committee consider adoption of the Section position and approve permanent elimination of the death penalty.